



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,813	07/30/2003	Tetsuya Shirogane	520.42989X00	9030

7590 11/28/2006

MATTINGLY, STANGER & MALUR, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

EXAMINER

CHOUDHURY, AZIZUL Q

ART UNIT	PAPER NUMBER
----------	--------------

2145

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/629,813

Applicant(s)

SHIROGANE ET AL.

Examiner

Azizul Choudhury

Art Unit

2145

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 7/21/06. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 3-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: The arguments presented are not deemed fully persuasive. The applicant has contested every claim rejection within the after final amendment. The following are the examiner's response to the principle arguments presented. The first point of contention involves the the claim trait of having a FEC redundancy for a transmission partner. The applicant contends that the prior art does not teach such a trait. The examiner disagrees with this assertion. FEC inherently features redundancy information within packets for the transmission node. The Schuster prior art teaches how there are transmitting and receiving nodes and how FEC is implemented within the design with those nodes. The second point of contention involves the redundancy encoder. The applicant contends that the encoder within Schuster's design encodes without referencing a redundancy held for a transmission partner identified in a TCP/IP packet group. The examiner disagrees with this assertion. The redundancies in FEC are held for transmission partners inherently. The FEC also must be transferred with the packets from the transmission partner. Schuster's design allows for transmission nodes within TCP/IP networks to send FEC encoded packets. Being FEC encoded, the packets hence feature redundancy information with regards to the transmission partner. The third point of contention involves the storage of redundancy for each transmission partner. The applicant asserts that Schuster fails to teach such a trait, either in table or cataloguing. The examiner disagrees. Schuster's design manages FEC within the sender and the receiver. In any digital design that handles data, such as redundancy codes and addresses, it is inherent that memory means must be present within which to store the data while it is being handled. In the fourth point of contention, the applicant argues that the trait of redundancy being changed in accordance with the state of packet loss is not taught. The examiner disagrees. The redundancy information within the FEC is changed based on the nodes and the environment and other factors (like noise). The redundancy information can be changed as needed based on the factors involved in the transmission. This is equivalent to the claimed redundancy changed in accordance with state of packet loss. The fifth point of contention involves the iSCSI. The applicant contends that the Chui prior art does not teach an iSCSI with a TCP/IP design using FEC. The examiner considers such an analysis to be incomplete. The rejection was provided using both the Schuster and the Chui prior arts. Chui teaches the existence of iSCSI and in combination with Schuster, it can be shown that the encoder/decoder devices of Schuster's design can have iSCSI. It is through this combination that devices with iSCSI can be seen to be implemented within a TCP/IP network with FEC. The sixth point of contention involves the "judgement" feature. This feature is essentially a check of the storage to see if information related to a node is present. Such a check is present in Schuster in column 9, line 60 - column 10, line 9. The seventh point of contention involves the loss ratio. The applicant contends that the loss ratio feature is not present within the Schuster prior art. Again, Schuster's design allows for the redundancy information within the FEC is changed based on the nodes and the environment and other factors (like noise). Loss ratio is one such factor. In addition, column 5, lines 10-40 also provide support for this within the Schuster disclosure.



PATRICE WINDER
PRIMARY EXAMINER